

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JACOB KOLONIS

Criminal No. *20-146*

[UNDER SEAL]

**FILED**

JUL - 8 2020

**INDICTMENT MEMORANDUM**

CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA

AND NOW comes the United States of America, by its attorneys, Scott W. Brady, United States Attorney for the Western District of Pennsylvania, and Heidi M. Grogan, Assistant United States Attorney for said District, and submits this Indictment Memorandum to the Court:

**I. THE INDICTMENT**

A federal grand jury returned a sixteen-count Indictment against the above-named defendant for alleged violations of federal law:

<u>COUNT</u>	<u>OFFENSE/DATE</u>	<u>TITLE/SECTION</u>
1, 2, 3, 4, 7, 11, 15	Interstate Transmission of an Extortion Communication August of 2019 (Counts 1, 2; 3, 4) November 22, 2019 (Count 7) November 28, 2019 (Count 11) February 5, 2020 until February 7, 2020 (Count 15)	18 U.S.C. § 875(d)
5, 9, 13	Production and Attempted Production of Material Depicting the Sexual Exploitation of a Minor November 22, 2019 (Count 5) November 28, 2019 (Count 9) February 5, 2020 until February 7, 2020 (Count 13)	18 U.S.C. §§ 2251(a) and (e)
6, 10, 14	Receipt and Attempted Receipt of Material Depicting the Sexual Exploitation of a Minor November 22, 2019 (Count 6) November 28, 2019 (Count 10)	18 U.S.C. §§ 2252(a)(2) and 2252(b)(1)

February 5, 2020 until February 7, 2020 (Count 14)

8, 12, 16 Transfer of Obscene Material to a Minor 18 U.S.C. § 1470  
November 22, 2019 (Count 8)  
November 28, 2019 (Counts 12)  
February 5, 2020 until February 7, 2020 (Count 16)

## **II. ELEMENTS OF THE OFFENSES**

### **A. As to Counts 1, 2, 3, 4, 7, 11, and 15:**

In order for the crime of Interstate Transmission of an Extortion Communication, in violation of 18 U.S.C. § 875(d), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant knowingly transmitted a communication in interstate or foreign commerce containing a true threat to injure the property or reputation of another; and
2. That the defendant did so with the intent to extort money or some other thing of value.

Title 18, United States Code, Section 875(d).

### **B. As to Counts 5, 9, and 13:**

In order for the crime of Production and/or Attempted Production of Material Depicting the Sexual Exploitation of a Minor, in violation of 18 U.S.C. §§ 2251(a) and (e), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant employed, used, persuaded, induced, enticed or coerced a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of

such conduct, or attempted to do so, as those terms are defined in Title 18, United States Code, Section 2256.

Title 18, United States Code, Section 2251(a).

2. At the time of the offense, the minor was under the age of eighteen years.

Title 18, United States Code, Section 2251(a).

3. That the defendant knew or had reason to know that such visual depiction would be transported or transmitted using any means or facility of interstate commerce, in and affecting interstate and foreign commerce, or was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

Title 18, United States Code, Section 2251(a).

**C. As to Counts 6, 10, and 14:**

In order for the crime of Receipt and Attempted Receipt of Material Depicting the Sexual Exploitation of a Minor, in violation of Title 18, United States Code, Sections 2252(a)(2) and 2252(b)(1), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant knowingly received or attempted to receive a visual depiction of a minor in interstate or foreign commerce or using any means or facility of interstate commerce, including by computer, or through the United States mail.

Title 18, United States Code, Section 2252(a)(2); United States v. X-Citement Video, 115 S.Ct. 464 (1994); United States v. Gallardo, 915 F.2d 149 (5th Cir. 1990).

2. That the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, as those terms are defined in Title 18, United States Code, Section 2256, and the defendant knew the visual depiction was of a minor.

Title 18, United States Code, Section 2252(a)(2);  
United States v. McCormick, 675 F.Supp. 223 (M.D.  
Pa. 1987), United States v. X-Citement Video, 115  
S.Ct. 464 (1994).

3. That the visual depiction is of such conduct.

Title 18, United States Code, Section 2252(a)(2).

**D. As to Counts 8, 12, and 16:**

In order for the crime of Transfer of Obscene Material to a Minor, in violation of 18 U.S.C. § 1470, to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That, using the mail or any facility or means of interstate or foreign commerce, the defendant knowingly transferred or attempted to transfer obscene matter to another individual;

2. That the defendant knew he was transferring obscene matter to an individual less than 16 years old;

3. That the defendant knew at the time of the transfer the general nature of the contents of the matter;

4. That the matter is obscene.

Title 18, United States Code, Section 1470.

### **III. PENALTIES**

**A. As to Counts 1, 2, 3, 4, 7, 11, and 15: Interstate Transmission of an Extortion Communication (18 U.S.C. § 875(d)):**

1. Imprisonment of not more than two (2) years (18 U.S.C. § 875(d)).
2. A fine of \$250,000.00 (18 U.S.C. § 3571(b)(3)).
3. A term of supervised release of not more than one year (18 U.S.C. § 3583(b)(3)).
4. Any or all of the above.

**B. As to Counts 5, 9, and 13: Production and/or Attempted Production of Material Depicting the Sexual Exploitation of a Minor (18 U.S.C. §§ 2251(a) and (e)):**

1. Imprisonment of not less than fifteen (15) years, nor more than thirty (30) years, but if such person has a prior conviction under Title 18, United States Code, Chapter 110, Chapter 71, Chapter 109A, Chapter 117, or under Section 920 of Title 10 or under the laws of any state relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be imprisoned for not less than twenty-five (25) years, nor more than fifty (50) years, but if such person has two or more such prior convictions, such person shall be imprisoned not less than thirty-five (35) years, nor more than life (18 U.S.C. § 2251(d)).
2. A fine of \$250,000.00 (18 U.S.C. § 3571(b)(3)).
3. A term of supervised release of at least 5 years and up to life (18 U.S.C. § 3583(k)).
4. Any or all of the above.

**C. As to Counts 6, 10, and 14: Receipt and Attempted Receipt of Material Depicting the Sexual Exploitation of a Minor (18 U.S.C. §§ 2252(a)(2) and 2252(b)(1)):**

1. Imprisonment of not less than five (5) years and not more than twenty (20) years, but if the defendant has a prior conviction under Title 18, United States Code, Chapter 110, Chapter 71, Chapter 109A, Chapter 117, Section 1591, or under Section 920 of Title 10, or under the laws of any state relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, or sex trafficking of children, the defendant shall be fined under this title and imprisoned not less than 15 years nor more than 40 years.

2. A fine of \$250,000.00 (18 U.S.C. § 3571(b)(3)).

3. A term of supervised release of at least 5 years and up to life (18 U.S.C. § 3583(k)).

4. Any or all of the above.

**D. As to Counts 8, 12, and 16: Transfer of Obscene Material to a Minor (18 U.S.C. § 1470):**

1. Imprisonment of not more than ten (10) years (18 U.S.C. § 1470).

2. A fine of \$250,000.00 (18 U.S.C. § 3571(b)(3)).

3. A term of supervised release of three (3) years (18 U.S.C. § 3583(b)(2)).

4. Any or all of the above.

**IV. MANDATORY SPECIAL ASSESSMENT**

A mandatory special assessment of \$100.00 must be imposed at each count upon which the defendant is convicted, pursuant to 18 U.S.C. § 3013.

With respect to Counts Five, Six, Nine, Ten, Thirteen, and Fourteen, an additional special assessment of \$5000.00 must be imposed at each count upon which the defendant is convicted, as the offense was committed after May 29, 2015, and the offenses are located within Chapter 110 of Title 18, United States Code. 18 U.S.C. § 3014(a).

With respect to Counts Five, Nine, and Thirteen, pursuant to 18 U.S.C. § 2259A(a)(3), an additional special assessment of not more than \$50,000.00 shall be assessed per count of conviction, as the offenses were committed after December 7, 2018, and the offenses are for child pornography production as defined in 18 U.S.C. § 2259(c)(1).

With respect to Counts Six, Ten, and Fourteen, pursuant to 18 U.S.C. §2259A(a)(2), an additional special assessment of not more than \$35,000.00 shall be assessed, as the offenses were committed after December 7, 2018, and the offenses are for trafficking in child pornography as defined in 18 U.S.C. § 2259(c)(3).

#### **V. RESTITUTION**

Restitution may be required in this case as to Counts One through Sixteen, together with any authorized penalty, as part of the defendant's sentence pursuant to 18 U.S.C. §§ 3663, 3663A, and 2259. As to Counts Six, Ten, and Fourteen, pursuant to 18 U.S.C. § 2259(b)(2)(B), the amount of restitution per victim shall not be less than \$3,000.00.

**VI. FORFEITURE**

As set forth in the Indictment, forfeiture may be applicable in this case.

Respectfully submitted,

SCOTT W. BRADY  
United States Attorney

/s/ Heidi M. Grogan  
HEIDI M. GROGAN  
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